UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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Seattle, Washington 98101-3140

December 12, 2008

Reply To: EPTA–088 93-038-FHW

Ms. Michelle Eraut
Federal Highway Administration
Oregon Division Office
530 Center Street N.E.
Suite 100
Salem, Oregon 97301

Ms. Emily Moshofsky
Oregon Department of Transportation
ODOT Region 1
123 NW Flanders Street
Portland, Oregon 97209-4012

Dear Ms. Eraut and Ms. Moshofsky:

The U.S. Environmental Protection Agency has reviewed the Sunrise Project, I-205 to Rock Creek Junction Supplemental Draft Environmental Impact Statement and Section 4(f) Evaluation (SDEIS). We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Thank you for allowing us the opportunity to offer comment at this time.

The SDEIS supplements the original Draft EIS for the Sunrise Corridor issued in 1993. The 1993 DEIS addressed a 13-mile long Sunrise Corridor that included two segments: Unit 1 extended from I-205 to Rock Creek Junction, and Unit 2 from Rock Creek Junction to Highway 26. The current SDEIS addresses only Unit 1, which is approximately 5 miles in length. The project Purpose is to "effectively address the existing congestion and safety problems in the OR 212/224 corridor between its interchange with I-205 and Rock Creek Junction, and to serve the growing demand for regional travel and access to the state highway system." The Oregon Department of Transportation (ODOT) and Clackamas County propose to build a new, east-west, limited-access highway—called the Sunrise Project—from I-205 to the Rock Creek Junction to connect I-205, the Milwaukie Expressway (OR 224), and OR 212/224. The project would consist of six through lanes plus two auxiliary lanes. Local access roads would also be needed.

The alternatives include Alternative 1--No Action, Alternative 2--Build with Midpoint Interchange, and Alternative 3--Build with No Midpoint Interchange. There are also six Design Options (A-2, B-2, C-2, C-3, D-2, and D-3) that have been developed to address different constraints or to avoid or minimize specific natural or built environmental impacts. The proposed project would include new and more frequent local transit service, new express bus service, and new multi-use path improvements that would fill in gaps in the existing I-205 trail system.

We appreciate the need to address congestion in the project area. Our concern is that the proposed solution would impact locally important habitats and open space, including forest and some agricultural land, wildlife corridors, riparian areas, and would fill 32 of the 41 remaining wetland acres in the project area, for which no conceptual mitigation has yet been proposed. Cumulatively, the SDEIS describes a construction and build-out scenario for the project area and land use planning area that would largely replace remaining natural ecosystem components and their functions with a built environment. Thus, we encourage the use of context sensitive solutions in project design, such as natural area avoidance and/or preservation, bridging of wetlands, habitat restoration, low impact development techniques, and redevelopment/re-use of disturbed sites as ways to maintain ecological functions and livability in the project area. We also highlight the CETAS as a good forum to vet mitigation strategies to achieve the greatest possible environmental benefits.

We are encouraged by the efforts to develop design options, such as Design Options A-2 and C-2, to avoid or minimize impacts to natural and cultural resources. We particularly commend and appreciate the efforts to develop a Wildlife Corridor Habitat Enhancement and Mitigation Strategy. We fully support this work and ask that it include provisions to ensure multiple wildlife corridors that are as wide as possible and protected to remain viable into the future.

With respect to environmental justice, we have concerns regarding potential disproportionate adverse effects from the project on low and very low income populations, including but not limited to loss of housing without good prospects for replacement. The SDEIS needs more information regarding the outreach to, concerns of, range of impacts and response to low income/environmental justice populations.

Other areas in which the SDEIS would benefit from more analysis, disclosure, and mitigation, include the potential for stimulated travel and growth pressures and associated environmental effects, air toxics and greenhouse gas emissions, ground water resources, and water quality and quantity impacts that could affect threatened Lower Columbia Chinook, Coho, and Steelhead, and their designated critical habitat. The SDEIS provides no information about potential effects on these species.

Based on the above, we rate the SDEIS as EC-2, Environmental Concerns, Insufficient Information. An explanation of this rating is enclosed. We welcome the opportunity to work with the project proponents further to address these concerns and hope that you will call on us to assist. If you have any questions or would like to discuss these comments, please contact Elaine Somers of my staff at (206)553-2966, Yvonne Vallette in our Portland Office at (503)326-2716, or me at (206)553-1601. Thank you for involving us in the Sunrise Project.

Sincerely,

/s/
Christine B. Reichgott, Manager
NEPA Review Unit

Enclosures

U.S. Environmental Protection Agency
Sunrise Project, I-205 to Rock Creek Junction SDEIS
Detailed Comments

Aquatic resources

Wetlands. We are concerned that impacts to wetlands and other aquatic resources are anticipated to be high (between 26 to 34 of 41 remaining wetland acres) with any build alternative proposed. The entire project sub-basin has already been heavily impacted by urban development, loss of riparian vegetation, and pollutant loadings from surface water runoff and storm water outfalls. Therefore, additional impacts to the scarce and declining aquatic components within the Cow Creek, Rock Creek, Sieben Creek and the Clackamas River watersheds should be avoided. We would support, for example, Design option A-2 and similar avoidance measures.

Recommendation: Work closely with the Corps of Engineers, EPA, USFWS, ODFW, and NOAA Fisheries to select a least environmentally damaging practicable alternative (LEDPA).

The SDEIS is vague in describing how compensatory mitigation is likely to be provided for this project through development of a comprehensive wetland mitigation strategy. With the realization that some of the impacted wetlands are former mitigation sites, the amount of compensation required would likely be increased to cover those additional losses. The SDEIS seems to emphasize wetland creation and enhancement due to the limitation of finding restoration opportunities.

Recommendation: We recommend that a combination of on-site and off-site mitigation options be considered that includes localized functions, such as water quality as well as larger landscape functions, such as wildlife migration corridors and habitat. The interagency structure that exists through the CETAS would be a good forum to vet development of a comprehensive mitigation strategy before inclusion in a Final SEIS.

Stormwater. In some watersheds, such as Dean Creek and Cow Creek, the amount of impervious surface to be created by the project is likely to double. Expectations that these impacts would be reduced by stormwater detention facilities are somewhat optimistic as the siting of these facilities to optimize control and treatment of pollutants would be constrained by the same features of the project that prevent additional avoidance and minimization of existing aquatic resources.

Recommendation: In situations where a significant redevelopment project results in an increase of more than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to stormwater measures, then the entire project must be included in the treatment measure design. We believe that this project provides some opportunities to employ ODOT's newly developed *Stormwater BMP Selection Process* to establish the most effective stormwater treatment objectives for this project.

Groundwater. The SDEIS provides limited information about groundwater resources in the Geology and Soils section. Because natural areas are expected to be replaced with built structures due to project construction and area land use planning, it is important that impacts to groundwater be well understood. Needed information includes a clear characterization of groundwater resources, their condition, vulnerabilities, recharge areas, their role in maintaining base stream flows and temperatures, importance as drinking water supplies (including a map of drinking water wells), and other relevant factors. There is need for more analysis of potential direct and indirect project effects on groundwater and means to mitigate identified impacts.

Recommendation: Provide more analysis for groundwater resources as described above. Consider providing a separate section in the SEIS that deals specifically with groundwater.

Air quality/Air toxics/GHG emissions/Mitigation

The EIS states (p. 133, 141) that with Alternatives 2 and 3, vehicle miles traveled (VMT) would increase by 22% over the No Build alternative due to the additional capacity provided by the proposed project. While no criteria air pollutant exceedances have been predicted for the project through conformity or hotspot analyses for CO, the construction and operation of the Sunrise Project would also result in increased air toxics and greenhouse gas (GHG) emissions over the no-action alternative. The Sunrise project is planned as a non-tolled facility. It would be informative to show how tolls and other potential TDM measures could affect the VMT and associated emissions and the projected levels of congestion.

Recommendation: Consider including in the Final SEIS an assessment of the effect of tolls and other TDM measures as a potential means to mitigate the increased emissions from the proposed project.

Air toxics and diesel particulates are of concern with respect to ambient air quality in the Portland regional area, and they are a concern near roadways and sensitive receptors, such as, schools, day care and senior centers, medical facilities, outdoor recreation and residential areas. In addition to the construction phase emissions from equipment and vehicles (see comments below), when operational the Sunrise Project would serve industrial lands and businesses, with 12% of the projected traffic to be trucks. The SDEIS provides no assessment of the existing localized air quality conditions in the project area, how conditions would be changed with the Sunrise project with respect to localized emissions and exposure levels, and does not identify sensitive receptor locations where it may be appropriate to evaluate near roadway conditions and hotspots. This is especially important since this project is a new alignment causing emission sources where currently none exist. One of the important findings of the Portland Air Toxics Assessment was the impacts of construction sites on micro scale air quality. These air quality effects can be significant. Air toxics emissions, particularly diesel exhaust, are known or suspected to cause cancer or other serious health effects, such as respiratory, neurological, reproductive, and developmental effects.

Recommendation: Provide analysis and disclosure of near roadway air pollutants – their composition, concentrations, identification of the sensitive receptor locations and populations, and the associated potential human health effects. This information would be particularly relevant to the communities and populations living within approximately 500 yards of the roadway, although the distance may vary depending on traffic and environmental conditions, and are hotspot in nature when there are localized concentrations. Include in the air quality section additional information on the duration, nature, and special extent of construction impacts on air quality. Include a discussion of potential health impacts. Identify the affected populations and sensitive receptor locations.

There are now many opportunities to reduce the effects of project construction on air quality and human health. Please see the Clean Construction USA website at http://www.epa.gov/otaq/diesel/construction/. At this website are examples of construction mitigation measures not included in the Draft SEIS. The website also includes case studies and examples of institutional arrangements for implementing this mitigation.

Recommendation: Augment the construction mitigation measures listed in the Draft SEIS to include additional mitigation measures listed on this website, and commit to their implementation. We are enclosing, too, a list of potential construction mitigation measures, many of which are easy and inexpensive to implement.

There is a Construction Sector within the West Coast Collaborative at http://www.westcoastdiesel.org, which is a public private partnership to reduce diesel emissions. The Construction and Distributed Generation Workgroup explores opportunities to share information and/or seek funding for a variety of projects including: using the NEPA review process to require construction emissions mitigation plans, contractual incentives, and providing incentive funding for smaller companies for pollution controls.

Greenhouse gas (GHG) emissions would also be greater with the build alternatives. The SDEIS does not analyze impacts of GHGs. We believe it is feasible and reasonable to at least qualitatively compare alternatives with respect to these pollutants, and it is important to factor them into decision making.

Recommendation: With respect to GHG emissions, provide a quantitative comparison of the estimated emissions that would result from the proposed alternatives. Include also a discussion of the likely effects of climate change (not due specifically to the GHG contributions from this proposed project) that are projected to occur within this geographic area and region based on the current best available science.

Ecological services, T&E species, ecological connectivity, wildlife corridors

We are concerned about the upland, riparian, and wetland habitat losses that would result from the proposed project and the effects it would have on local fish and wildlife populations, particularly the threatened fish species. No biological assessment has been provided, and consultation with the Services has apparently not been initiated. Therefore, we believe the DSEIS does not provide sufficient information about the effects of the proposed project on threatened fish species, including Lower Columbia Chinook, coho, and steelhead.

Recommendation: Include in the Final SEIS the results of the biological assessments, and any further available information about the biological opinions.

To avoid residential and commercial displacements, the remaining natural areas and open spaces in the project area have been targeted for the new alignment. This carries with it a suite of impacts that go beyond fish and wildlife to impacts upon human communities and individuals who will no longer benefit from the ecological services provided by these natural areas. We believe it is important to openly disclose these losses and tradeoffs, and how they affect the ecology, economy, social fabric and overall quality of life in affected communities.

It is also important to mitigate the natural area conversions that occur directly and indirectly as a result of the proposed project. We encourage the use of context sensitive solutions in project design, such as natural area avoidance and/or preservation, bridging of wetlands, habitat restoration, low impact development techniques, and redevelopment/re-use of disturbed sites as ways to maintain ecological functions and livability in the project area. We also highlight the CETAS as a good forum to vet mitigation strategies to achieve the greatest possible environmental benefits.

Recommendation: In the Final SEIS include the discussion of impacts and consider mitigation as described above.

We commend FHWA and ODOT for their efforts to maintain the existing wildlife corridors. Corridors are of critical importance for use by wildlife currently inhabiting the project area, as well as for a means of adaptation to climate change where a corridor may be needed for migration, re-colonization,

and/or genetic exchange. It is important to provide more than one viable corridor to and from remaining blocks of habitat to improve options in the future in the face of natural disasters, unforeseen development, or other impediments that may preclude the use of a single movement corridor. It is also important to ensure the corridors are as wide as possible and that the corridor lands are preserved to ensure the corridors remain viable into the future.

Recommendation: Continue efforts to ensure that existing wildlife corridors are preserved, are as wide as possible, and that they remain intact into the future. As compensation/mitigation for habitat losses due to the proposed project, consider establishing new or re-establishing previous wildlife corridors that would increase the options for wildlife movement with design and function as described above.

Environmental Justice

The Sunrise Project would potentially result in direct, indirect, and cumulative impacts to project area neighborhoods and communities (such as, the Old Clackamas area and manufactured home parks) that meet the criteria under Executive Order 12898 on Environmental Justice as being inhabited predominantly by low income and/or minority populations. Some census block groups in the project area also include those that have unusually high populations of children, elderly, and disabled residents. Due to the disadvantaged characteristics of the affected populations, EPA believes that extra measures may be necessary to ensure effective public participation and sufficient and appropriate mitigation for project impacts.

Public involvement. The SDEIS indicates that some outreach, including selective door to door distribution of flyers and meeting invitations, has occurred. However, there is not sufficient information to determine the extent and quality of the public involvement efforts. More information is needed about how and whether the low income, minority, elderly, and disabled residents were effectively contacted, about the concerns they identified, and about the response to their concerns.

Recommendation: In the Final Supplemental EIS, disclose more information about the outreach techniques, participation levels, the concerns of the residents, what was learned in the process of trying to reach and involve these communities, and indicate how public input was incorporated into the project and decision making. If the low income populations were not effectively engaged in the process, consider additional outreach efforts to include them.

With respect to impacts, the SDEIS does a good job of analyzing and disclosing information about business and residential displacements, including those in low income neighborhoods. The environmental justice analysis should also include other potential impacts that may disproportionately affect the disadvantaged communities, such as, air pollution/air toxics, health effects, noise and vibration, light and glare, visual/aesthetic impacts, community resources and cohesion, increased traffic and congestion, access and safety issues, construction impacts, and the cumulative impacts on the physical, mental, and economic health and well being of affected residents. The cumulative effects assessment would likely include some level of baseline evaluation of environmental (such as, air pollution, noise, traffic levels) and health conditions (such as rates/occurrence of asthma or other respiratory conditions, premature deaths) among these populations and neighborhoods.

Recommendation: In the Final SEIS, provide analysis and disclosure of any other project-related direct, indirect, or cumulative impacts that would potentially affect the low income populations in the project area.

Mitigation. To mitigate the impacts to disadvantaged neighborhoods in the project area, the SDEIS discusses potential relocations for displaced homes and businesses. However, there is no

mitigation discussed for impacts associated with partial takings/displacements that do not result in relocation, or for impacts such as encumbered home sales and business leases due to potential project impacts. A means to mitigate these impacts should be discussed and developed with those affected.

For full displacements, mitigation should also be discussed with affected parties. It may be that relocation would be a lesser impact than avoiding displacement due to the suite of cumulative effects that could potentially result from living in close proximity to the new roadway.

Disabled and elderly individuals could be especially impacted by project construction within their neighborhoods, and by increased traffic and congestion resulting from the north-south barrier effect of the new roadway. To mitigate safety hazards to disabled and elderly pedestrians, it may be helpful to provide shuttle services to meet their transportation needs both during project construction and to access public transit once the project is operational.

Recommendation: Consider adopting these mitigation measures and/or others not listed here that are reasonable and recommended by concerned individuals and organizations, to lessen the project impacts on affected residents.

Indirect effects – stimulated travel and growth

We understand stimulated travel demand to be any increase in travel resulting from improved travel conditions (Hunt, 2002). In most contexts, "improved travel conditions" refers to reduced travel times or improved reliability of travel times. There are both short term effects (more trips, longer trips), and long term effects (land use change) from stimulated travel demand.

The SDEIS briefly discusses the subject of project indirect effects on land use and growth, but dismisses the potential for such impacts outside of planned growth, stating (on p. 213) that large scale urban land development in Oregon is not primarily driven by the development of the highway system to the same extent that it is in other states. However, the traffic analysis projects 22% higher VMT due to the added capacity from the Sunrise Project, which indicates a stimulated travel effect, and the SDEIS states that constructing the highway may accelerate development of currently undeveloped and open lands, especially in east Happy Valley and Damascus. This indicates that planned growth may occur sooner than the twenty year land use planning horizon and potentially lead to unplanned growth outside the urban growth boundary (UGB). The SDEIS should analyze and disclose where and to what extent this could potentially occur.

In addition, there should be a discussion of potential mitigation measures that would help to prevent unplanned development and future congestion both within and outside the project area. For example, consider access control at the Alternative 2 midpoint interchange and roadways, integrated planning of bike and pedestrian facilities with transportation oriented development, compact mixed uses, affordable housing and preservation of open spaces and natural areas.

Recommendation: Include analysis in the Final SEIS, using identified methodology(ies), that would illustrate the differences among alternatives with respect to stimulated travel and growth, such as the differences with and without a midpoint interchange, the No Build Alternative build out scenario vs. Alternatives 2 or 3 using the different design options that would or would not access different locales within the project area. There should be discussion of how this project would affect the growth plans for the Damascus and Boring areas, to US 26 and beyond the UGB. Include potential mitigation measures for stimulated travel and growth impacts, including those that may not be within the authority or capability of the lead agency to implement.